

LAWLER, METZGER & MILKMAN, LLC

2001 K STREET, NW
SUITE 802
WASHINGTON, D.C. 20006

REGINA M. KEENEY

PHONE (202) 777-7700
FACSIMILE (202) 777-7763

March 15, 2004

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 02-55
Ex Parte Presentation

Dear Ms. Dortch:

On Friday, March 12, 2004, Lawrence Krevor, Vice President – Government Affairs, Nextel Communications, Inc. (“Nextel”), met with John Muleta, Bureau Chief, Wireless Telecommunications Bureau, and Sheryl Wilkerson, Legal Advisor to Chairman Powell, regarding the Commission’s above-captioned rulemaking on public safety communications in the 800 MHz band. During the meeting, Mr. Krevor discussed issues raised by Nextel in its submissions in this proceeding, including the urgent need to adopt the Consensus Plan as a means of resolving CMRS – public safety interference and providing additional spectrum for public safety communications. Attached to this letter are copies of materials that were discussed at this meeting.

Pursuant to section 1.1206(b)(2) of the Commission’s rules, 47 C.F.R. § 1.1206(b)(2), this *ex parte* notification and the attachment are being filed electronically for inclusion in the public record of the above-referenced proceeding.

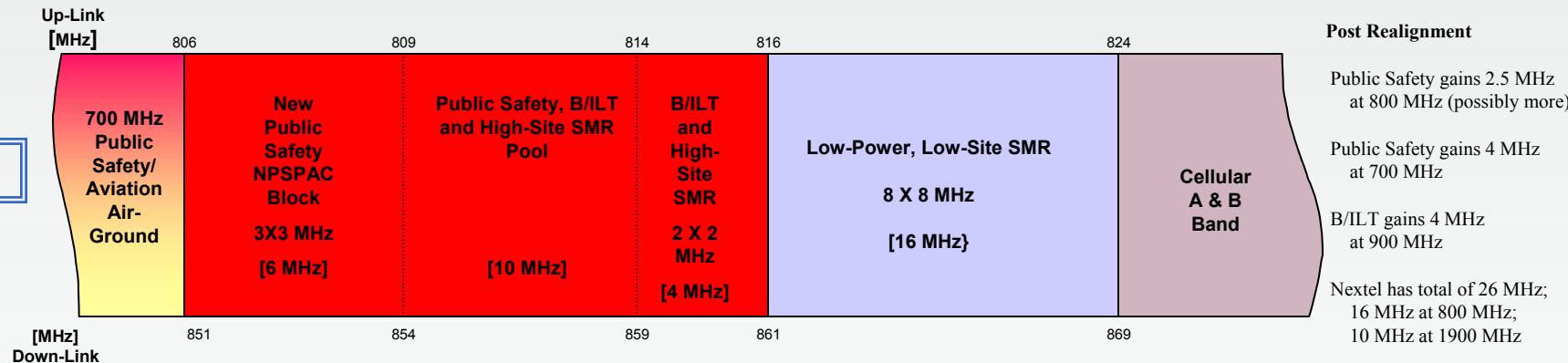
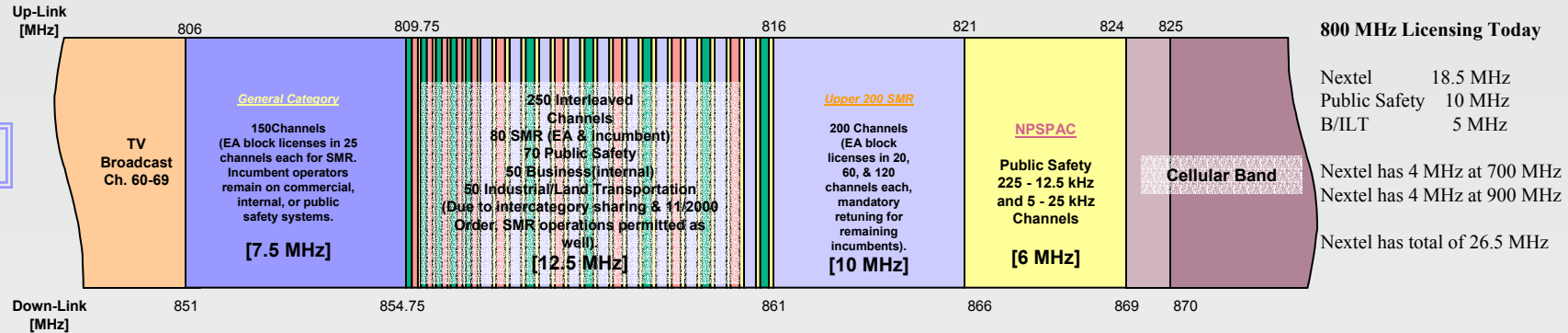
Sincerely,

/s/ Regina M. Keeney
Regina M. Keeney

Attachment

cc: John Muleta
Sheryl Wilkerson

Consensus Plan for Public Safety Spectrum Realignment



800 MHz Band - Nextel will relinquish an average of 2.5 MHz of 800 MHz spectrum to make overall realignment of 800 MHz band possible, moving public safety to non-cellular block adjacent to future public safety spectrum.

700 MHz Band - Nextel will relinquish to the FCC 4 MHz of near-nationwide spectrum to be reassigned to public safety providers to expand their systems. This spectrum is adjacent to existing public safety allocations in the 700 MHz band.

900 MHz Band - Nextel will relinquish 4 MHz of 900 MHz spectrum nationwide to encourage private wireless incumbents to relocate from the 800 MHz Band, thereby creating additional spectrum for public safety use. Voluntarily relocating private wireless licensees will get a 2-for-1 spectrum bonus at 900 MHz for private wireless growth.

1.9 GHz Band (1910-1915 MHz paired with 1990-1995 MHz) - In exchange for the 10.5 MHz of spectrum listed above, Nextel must receive replacement spectrum. The 1910-1915 MHz portion is not currently being used, while the 1990-1995 MHz portion has recently been reallocated from the Mobile Satellite Services industry to services such as Nextel.

\$3 Billion Commitment from Nextel – Nextel paid \$2 billion in FCC auctions and the secondary markets to acquire the 700, 800, and 900 MHz spectrum it would exchange; Nextel would fund up to \$850 million for relocating all of public safety and private wireless (B/ILT) licensees; Nextel will spend approximately \$150 million for its own retuning costs under realignment.

800 MHz Realignment

- Value of 10 MHz of 1.9 GHz spectrum, which is encumbered by Broadcast Auxiliary Service (BAS) and reimbursement to Unlicensed PCS (UPCS) parties in the **1910-1915/1990-1995 MHz** “G” Block; be able to immediately retune BAS. (Propagation costs: No current equipment available).
- Realignment paid for at 800 MHz for both Public Safety and private wireless - \$850 million
- Additional Spectrum to Public Safety:

2.5 MHz at 800 MHz

4.0 MHz at 700 MHz

4.0 MHz at 900 MHz

2.0 MHz at 800 MHz – restricted Nextel use (Appendix F)

Constraining our capacity – Boston 23, left with 14 useable.

- Contributed Spectrum Valuation to be established in Report and Order

18.5 MHz at 800 MHz cost \$6.155 billion or use of Chadmore acquisition (2001)
-- higher number

2.5 MHz of contributed 800 MHz spectrum out of 18.5 MHz = \$832 million or 25% of 10MHz or Chadmore equals \$1.4b.

2.0 MHz of restricted 800 MHz spectrum out of 18.5 MHz = \$665 million or 20% of 10 MHz or Chadmore equals \$1.1b.

4.0 MHz of contributed 700 MHz spectrum = \$346 million cost

4.0 MHz of contributed 900 MHz spectrum = \$800 million cost or 40% of 10MHz

- Nextel Expenditures:

Realignment costs estimated at: \$850 million

Filters on Nextel’s network (Appendix F): \$150 million

Estimated Nextel internal rebanding costs: \$400 million

\$1.4 billion (could be higher)

Strain on network in rebanding – churn, risk increases against our gain in marketshare.

Total Valuation \$4 billion of Nextel contributions not including disruption to service and retuning costs at 1.9 MHz.

What Windfall?

*A Review of the Valuation
Components of the Consensus Plan*

Background



The Myth: Verizon alleges a Consensus Plan windfall for Nextel:

- ◆ Asserts that 10 MHz of contiguous replacement spectrum at 1.9 GHz is worth \$5.3 billion
- ◆ Asserts additional contiguous spectrum at 800 MHz worth about \$3 billion
- ◆ Result: increase Nextel's spectrum value by \$7.2 billion (after deducting value of Nextel's spectrum contributions)

The Reality: No Nextel Windfall

- ◆ Nextel's spectrum and financial Consensus Plan obligations are worth at least \$2 billion more than the encumbered 1.9 GHz replacement spectrum
- ◆ Primary benefit of additional 800 MHz contiguous spectrum is reduced public safety interference; interference reduction far outweighs ancillary benefit to Nextel
- ◆ Verizon conveniently ignores the value to the public of eliminating interference to critical public safety communications systems

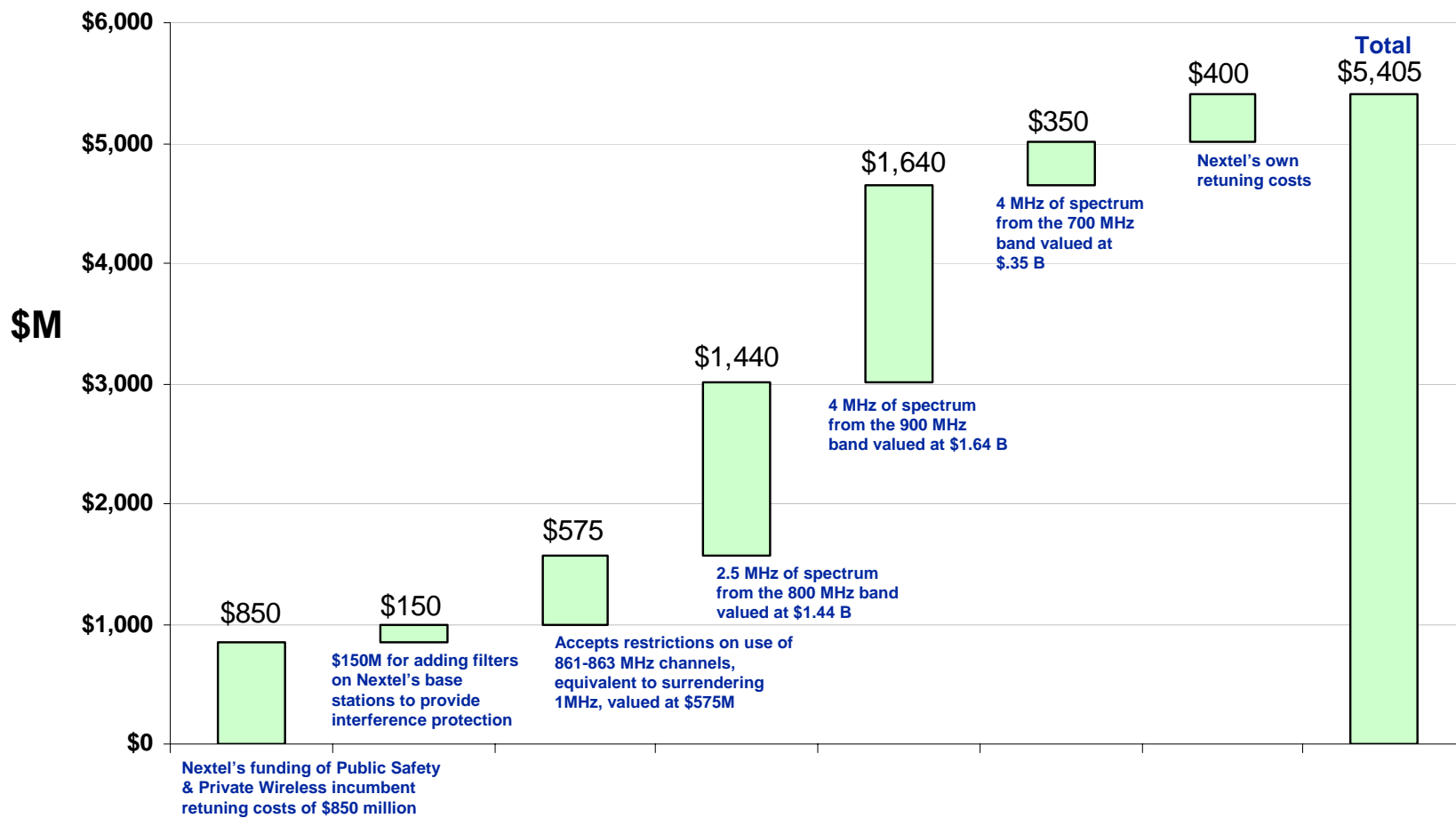
The Facts: Cellular Carriers Get a Virtual Free Ride!

- ◆ The cellular licensees -- AWE, Cingular, Verizon, Alltel – receive substantial benefits under the Consensus Plan
- ◆ Cellular operators contribute approximately 25 percent of commercial – public safety interference
- ◆ The Consensus Plan eliminates cellular-only interference to public safety and private wireless systems and makes eliminating cellular-Nextel combined interference much easier
- ◆ Unlike Nextel, the cellular carriers obtain this benefit without having to retune their systems or provide any incumbent retuning funding. Cellular gets all of the gain, with almost no pain

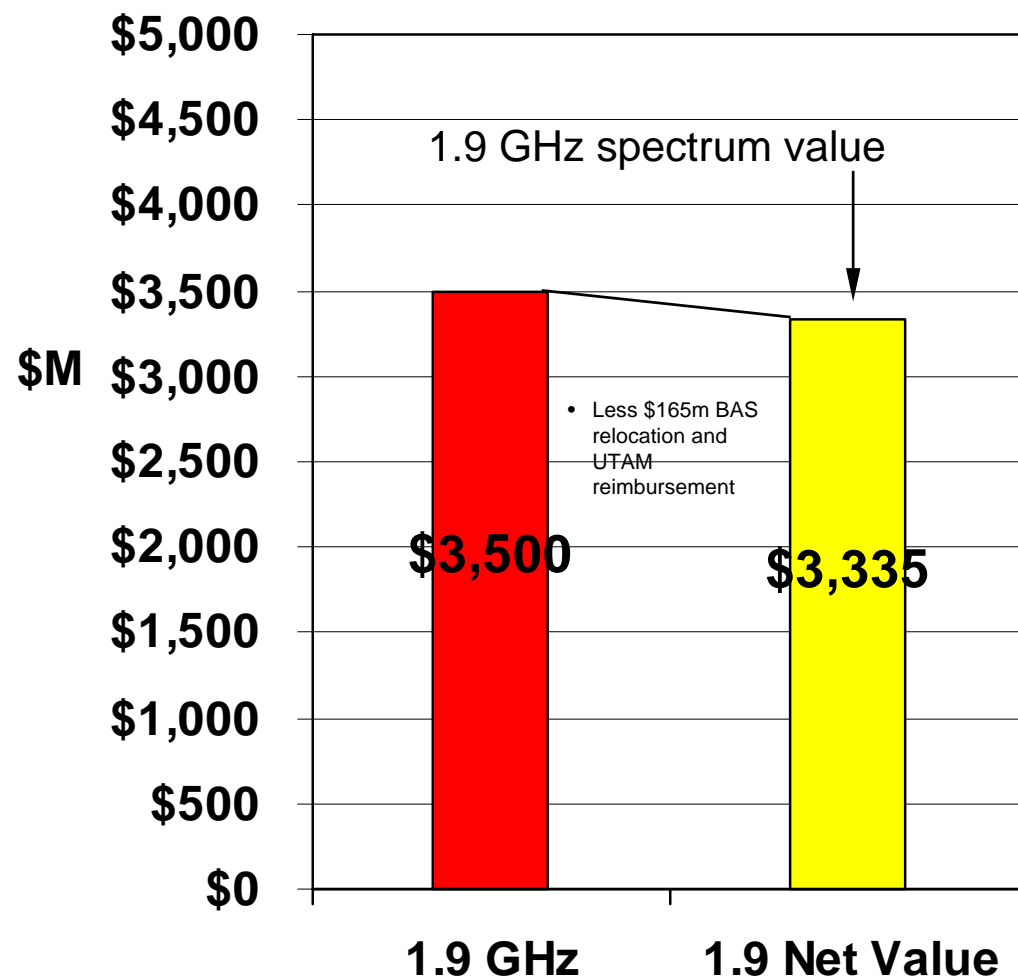
The Consensus Plan:

A great deal for Public Safety First Responders and the American people

Nextel contributes more than \$5.4 B to solve 800 MHz Interference



Nextel Receives Less than \$3.4 B of Replacement Spectrum



10 MHz Nationwide 1.9 GHz license valued at \$3.5 B

- ◆ Based Upon 2003 marketplace transactions
- ◆ Uses “tiered” pricing model to generate average spectrum price for a combination of large and small markets
- ◆ Reflects realistic, market based valuation of the 1.9 GHz license

Less \$165 million for incumbent relocation for a net value of \$3.3 B

- ◆ \$150 million: Nextel’s estimated *pro rata* share of cost of retuning 1.9 GHz incumbent BAS licensees
- ◆ \$15 million for *pro rata* reimbursement of UTAM’s expense for retuning fixed microwave licensees out of the 1910 – 1915 MHz channel block

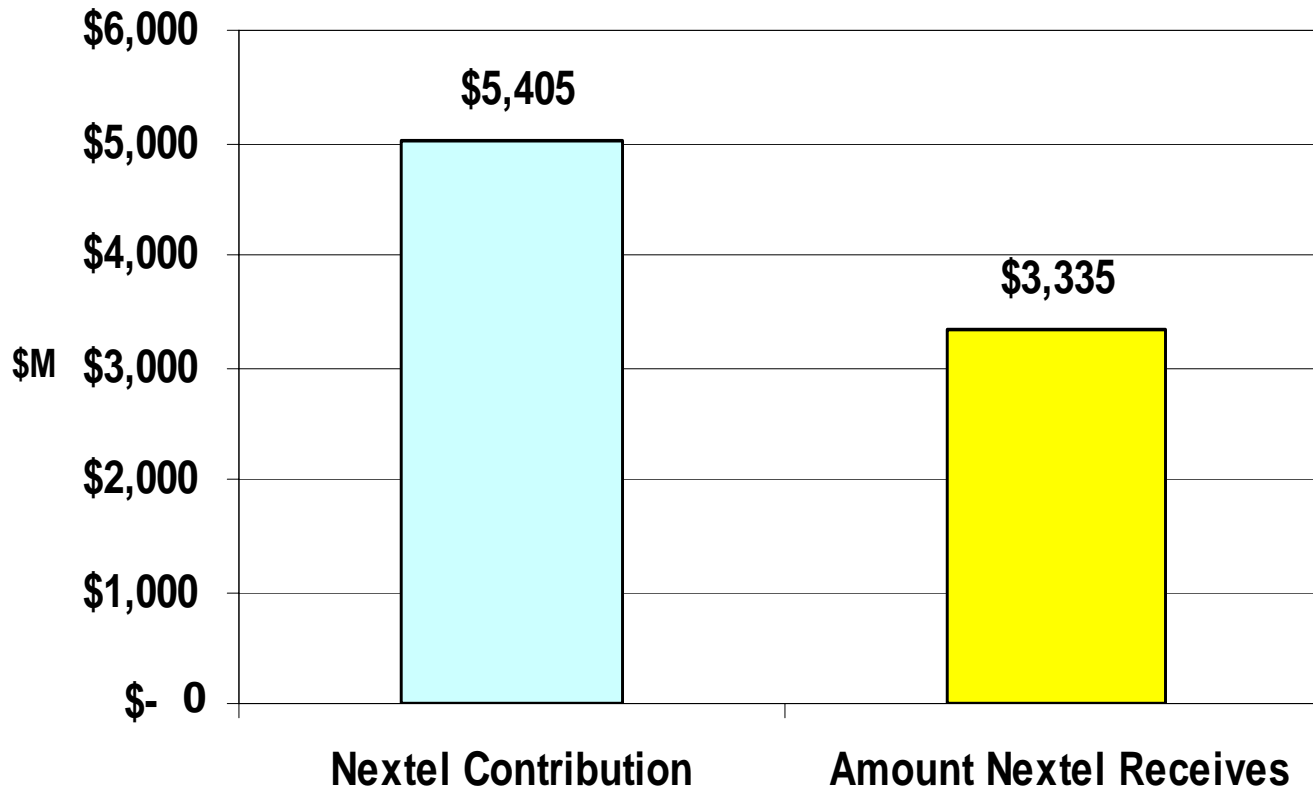
No Nextel spectrum windfall at 800 MHz

- ◆ Nextel averages 18.5 MHz at 800 MHz across U.S. markets; 10 MHz contiguous block today (816/861 – 821/866 MHz), with smaller contiguous channel groups
- ◆ Consensus Plan moves all Nextel 800 MHz channels above 816/861 MHz:
 - Results in 16 MHz contiguous channel block licensed primarily to Nextel
 - Nextel surrenders 2.5 MHz for public safety communications systems
- ◆ Nextel built its network using iDEN technology designed for efficient non-contiguous spectrum use
 - Technology refined over the past decade to deliver increased spectrum efficiency, customer capacity (6:1 interconnect) and faster data rates (w-iDEN)
- ◆ Nextel current non-contiguous spectrum serves more than 12 million customers (and growing) with industry leading performance metrics.
 - More contiguous spectrum (6 MHz) adds little, if any, significant value given iDEN's optimization for efficient non-contiguous spectrum deployment
- ◆ Realigning Nextel's 800 MHz channels into a contiguous block benefits primarily public safety systems by providing Nextel enhanced technical solutions to prevent interference

CONCLUSION:

Incremental additional contiguous spectrum at 800 MHz enables Nextel to better prevent interference. This is a public interest benefit, not a windfall to Nextel

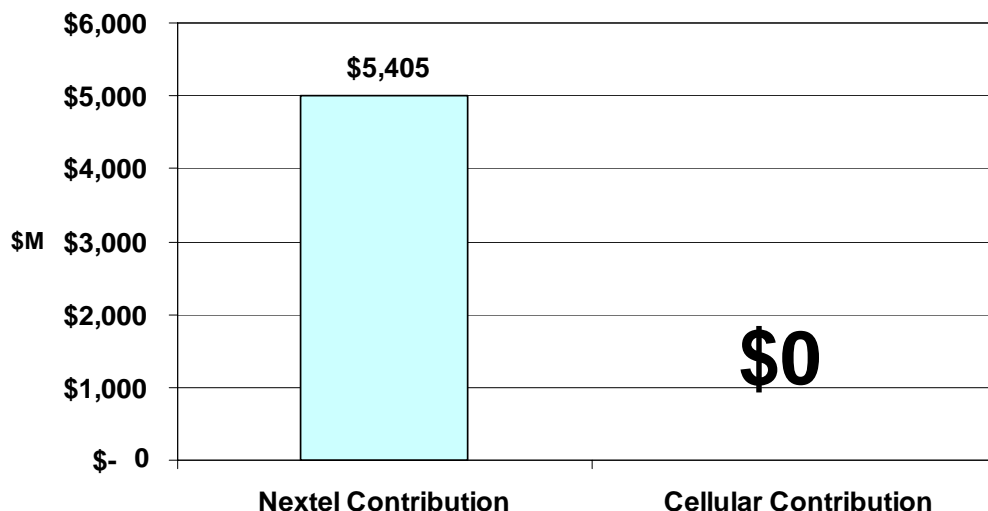
By the Numbers: Nextel Gets No Financial Windfall



- Nextel's overall commitments are substantial in order to ensure that interference is eliminated for Public Safety, Private Wireless and Nextel
- Interference elimination ensures the continued successful and profitable operation of Nextel's business

Cellular Carriers Contribute Nothing to Solve Interference

AWE, Cingular, Verizon, Alltel, and others get a virtual free ride



Only The Consensus Plan:

- ◆ Eliminates cellular only - public safety interference
- ◆ Virtually eliminates cellular/Nextel – public safety interference
- ◆ Advances and facilitates mitigation if interference does occur
- ◆ Cellular carriers contribute \$0 to retuning and \$0 to public safety*
- ◆ Unlike Nextel and most public safety and private wireless incumbents, cellular carriers do not have to retune their own systems

*Consensus Plan technical rules would require additional filtering on some cellular base stations at minimal cost.

Cellular A Band Gets a Windfall



- ◆ The FCC is phasing out the analog cellular service mandate
- ◆ Effective February 18, 2008, cellular operators no longer have to offer analog service
- ◆ Typically, cellular operators reserve the lower channels in their block for analog use
- ◆ Cellular A band operators provide analog on their channels closest to the NPSPAC public safety channels
- ◆ When the analog requirement disappears, Cellular A band operators will deploy broadband technologies on these channels. Without 800 MHz realignment, cellular A broadband deployment would exponentially increase interference on the adjacent NPSPAC public safety channels, thereby impeding broadband deployment
- ◆ The Consensus Plan relocates the NPSPAC public safety channels to the far end of the 800 MHz band. This enables cellular A block carriers to deploy advanced broadband service in lieu of less efficient analog service without increasing the probability of interference to public safety systems
- ◆ The Consensus Plan gives cellular A band carriers a virtual free ride on a permanent public safety interference solution and a valuation windfall

So -- Why does cellular oppose the Consensus Plan?



The Answer: To maintain a competitive advantage over Nextel

- ◆ Nextel's 800 MHz channels are interleaved with public safety channels more than those of the cellular licensees; Nextel is involved in approximately two-thirds of reported interference cases
- ◆ The cellular carriers want to keep Nextel embroiled in interference resolution, rather than compete head-to-head on a level playing field
- ◆ The cellular carriers fear Nextel. They seek advantage through regulatory manipulation despite the increasing risk to public safety of death, injury, and economic loss due to an inability to communicate

Verizon's Valuation: A flawed and disingenuous analysis



Points from Verizon Study	Facts	Conclusion
10 MHz of 1.9 GHz spectrum valued at \$5.3 B by Kane Reece study	The highest net amount ever bid (but never received) for 10 MHz of spectrum at 1.9 GHz is \$3.3 B in the C Block auction. The highest amount actually paid to the FCC is \$1B	Verizon 1.9 GHz valuation is an irrational appraisal generated by a flawed methodology
Nextel's 800 and 900 MHz spectrum is encumbered and is therefore less valuable	Nextel generates the highest operating income <u>and</u> lowest customer churn than any other carrier using its "encumbered" spectrum	No discount should be applied to Nextel's spectrum holdings
1.9 GHz spectrum Nextel would obtain is superior to 800 MHz spectrum	<p>Incorrect: 1.9 GHz spectrum Nextel would obtain is encumbered, requiring at least \$165 M to relocate incumbents</p> <p>1.9 GHz has inferior propagation characteristics, requiring 2 to 3 times more cell sites than 800 MHz</p> <p>No equipment currently exists to operate in the "G Block". Will require new equipment development. Also means no roaming with the millions of existing 1.9 GHz PCS subscribers</p>	<p>The 1.9 GHz spectrum has both pros and cons; it is not superior spectrum</p> <p>Nextel will incur significant cost to retune 1.9 GHz incumbents; the spectrum has inferior propagation characteristics</p> <p>Nextel will have to fund development costs for new infrastructure and handsets to operate at 1.9 GHz for the "G Block"</p>

Nextel has over seventeen years of conducting spectrum transactions which provides solid credibility for estimating spectrum value

The Consensus Plan – The Only Effective Solution



	Consensus Plan	UTC/CTIA Proposal
Proactive Interference Remedy?	Yes – Attacks the root cause of the problem by realigning the band and establishes technical rules for additional protection	No – Reactive and “puts Public Safety communications, officers and the public at continuing risk of interference” (NPSTC)
Fund Public Safety Costs?	Yes – Public safety and private wireless relocation costs covered by \$850M Nextel commitment	No – “imposes unfunded financial obligations on Public Safety” (NPSTC)
More Public Safety Spectrum?	Yes – 2.5+ MHz at 800 MHz and 4 MHz at 700 MHz – promotes Public safety interoperability and economies of scale	No – no additional spectrum for Public Safety
Fair deal?	Yes – The Consensus Plan is a complete solution and treats all stakeholders– public safety, cellular carriers (including Nextel), private wireless users – fairly. It cures interference from commercial systems to public safety users permanently, with no burden on taxpayers, and provides public safety with greatly needed additional spectrum	No – Incomplete solution that continues to place the burden on public safety to mitigate interference, increasing costs to public safety and ultimately the taxpayer